

Amendments to the Drawings:

Please substitute the enclosed one (1) replacement sheet of drawings, showing FIGS. 1 and 2, for the drawings currently on file.

REMARKS/ARGUMENTS

Reconsideration of this patent application is respectfully requested in view of the foregoing amendments, and the following remarks. Claims 9-16 are in the application. The specification, the Abstract, claims 9 and 10, and FIGS. 1-2 have been amended. No new matter has been added.

Applicant appreciates the Examiner's courtesy during the Interview on October 1, 2009. The substance of the interview is contained in the remarks below.

The Examiner objected to the Abstract. Applicant encloses a new Abstract on a separate page. Applicant has amended FIG. 2 so that it is labeled "Prior Art" as suggested by the Examiner in the Interview.

The Examiner rejected claims 9 and 10 under 35 USC §112. Applicant has amended claims 9 and 10 accordingly.

Claims 9 and 10 are rejected under 35 U.S.C. §102(b) as being anticipated by *Nelson et al.* Claims 11-16 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Nelson et al.*

Applicant respectfully traverses.

Claim 9 has been amended to recite that the outer tube opens via a compensating opening and communicates with the interior of the compressor housing. Support for this amendment can be found in the specification on page 9, lines 8-13 of the specification.

In the interview of October 1, the Examiner and the undersigned discussed the relationship between FIG. 1, which shows the entire compressor housing, and FIG. 3, which shows the muffler arrangement according to claim 9. Applicant submits that the muffler arrangement of claim 9 can be used in the compressor of FIG. 1 in that the entire muffler arrangement of FIG. 3 is disposed inside the compressor housing of FIG. 1. The outer tube 22 and compensating opening 23 are not shown in FIG. 1 because they are located behind suction muffler 16 shown in FIG. 1. The outer tube opens into the interior of the compressor housing via compensating opening 23, so that the muffler is in communication with the interior of the compressor housing. In conventional mufflers, the interior of the mufflers are sealed off entirely from the interior of the compressor housing.

Regarding Nelson et al., the Examiner equates the compensating volume according to the present invention with the volume between the upper end of projection 86 and cap 69 and bottom 71 of the muffler according to Nelson. However, following this argument would have the device of Nelson passing refrigerant through inlet cross section (top of projection 86) and first entering the filling volume (above end of projection 86 within muffler 65) and then the compensating volume -- wrongly-defined by the upper end of projection 86 and cap 69 and bottom 71 of the muffler.

However, such a compensation volume as deliberately defined by the Examiner does not have an outer tube which is directed into the compressor housing according to claim 9 of the present invention.

According to the present invention, the outer tube 22 as depicted in Figs. 3 and 4 extends into the interior of the compressor housing, whereas in Nelson, the outer wall 71 at its bottom is enclosed by cap 69 and does not communicate with the interior of the compressor housing. Nor does the other wall 71 at its top communicate with the interior of the compressor housing because there it narrows to enclose the suction tube 61.

The aim of the outer tube being directed into the compressor housing is to allow a flow of refrigerant from the compensating volume along this outer wall into the interior of the compressor housing, see e.g. page 9, end of first paragraph, of the present application. The application also shows that the outer tube 22 opens into the interior of the compressor housing via a compensating opening 23, see Fig. 3. Fig. 3 additionally shows passages 32.

The compensation volume as defined by the Examiner and according to Nelson, however, allows no flow of refrigerant along the outer tube into the compressor housing, since according to Nelson, the outer tube 71 itself has no connection to the interior of the compressor housing.

In addition, the suction pipe according to claim 9 of the present invention is enclosed by the outer tube at least along a section. However, the upper end of suction pipe 96 facing the muffler according to Nelson ends - in axial direction - before horn 88 or even outer wall 71 of the muffler begins. There is an axial gap between the suction pipe 96 and the muffler 65 - the muffler and suction pipe do not overlap. Therefore, Nelson does

not disclose that the suction pipe is enclosed by the outer tube at least along a section, as stated in claim 9 of the present invention.

Such an overlap is very important for the present invention since it prevents cold refrigerant coming from the evaporator from escaping into the interior of the compressor housing, see description page 3, beginning of paragraph 2.

The Examiner counts elements 88 and 86 also as part of the suction pipe. This is not correct, because these elements are clearly different and disposed at a distance from the suction pipe or return line 96. Elements 88 and 86 in Nelson are clearly defined as parts of the muffler, see column 4, lines 7-9 and lines 48-55, and cannot be seen as part of the suction pipe or return line 96.

Finally, amended claim 9 claims that there is an additional opening in the outer tube of the muffler, additional to the inlet cross section of the muffler. Nelson does not have an opening in muffler 65 additional to the inlet opening 88/86. The function of that compensating opening 23 is that refrigerant from the filling volume can displace warm refrigerant in the compensating

volume, whereas the warm refrigerant enters via the compensating opening 23 into the interior of the compressor housing, see page 9, 2nd paragraph of the description.

Accordingly, Applicant submits that claims 9-10 as amended, together with claims 11-16, are patentable over the cited reference. Early allowance of the amended claims is respectfully requested.

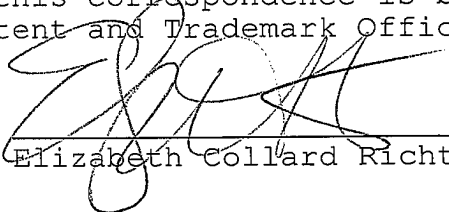
Respectfully submitted,  
Alfred FREIBERGER



Elizabeth C. Richter, Reg.No. 35,103  
Attorney for Applicant

COLLARD & ROE, P.C.  
1077 Northern Boulevard  
Roslyn, New York 11576  
(516) 365-9802

I hereby certify that this correspondence is being filed electronically in the U.S. Patent and Trademark Office on October 27, 2009.



Elizabeth Collard Richter